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**REPORT OF THE MARKET CONDUCT EXAMINATION  
OF THE CLAIMS PRACTICES OF THE**

**HANA HOME PROTECTION COMPANY  
NAIC # H4426 CDI # 4426-3**

**AS OF NOVEMBER 30, 2007**

**ADOPTED ON May 19, 2008**

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE  
MARKET CONDUCT DIVISION  
FIELD CLAIMS BUREAU**

## **NOTICE REGARDING CONFIDENTIALITY**

The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. Section 12938 of the California Insurance Code requires the publication of certain legal documents and examination reports.

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**DEPARTMENT OF INSURANCE**

Consumer Services and Market Conduct Branch  
Field Claims Bureau, 11th Floor  
300 South Spring Street  
Los Angeles, CA 90013



May 19, 2008

The Honorable Steve Poizner  
Insurance Commissioner  
State of California  
45 Fremont Street  
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

**HANA Home Protection Company**

**NAIC # H4426**

Hereinafter, the Company listed above also will be referred to as HANA or the Company.

This report is made available for public inspection and is published on the California Department of Insurance web site ([www.insurance.ca.gov](http://www.insurance.ca.gov)) pursuant to California Insurance Code section 12938.

## **FOREWORD**

The examination covered the claims handling practices of the aforementioned Company during the period December 1, 2006, through November 30, 2007. The examination was made to discover, in general, if these and other operating procedures of the Company conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law. This report contains alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. Violations of other relevant laws were not found in this examination.

The report is written in a “report by exception” format. The report does not present a comprehensive overview of the subject insurer’s practices. The report contains a summary of pertinent information about the lines of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer’s proposals for correcting the deficiencies. When a violation that resulted in an underpayment to the claimant is discovered and the insurer corrects the underpayment, the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices and the Company’s responses, if any, have not undergone a formal administrative or judicial process.

## **SCOPE OF THE EXAMINATION**

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Company for use in California including any documentation maintained by the Company in support of positions or interpretations of fair claims settlement practices.
2. A review of the application of such guidelines, procedures, and forms, by means of an examination of a sample of individual claims files and related records.
3. A review of the California Department of Insurance's (CDI) consumer complaints and inquiries about this Company handled by the CDI during the period December 1, 2006, through November 30, 2007, and a review of previous CDI market conduct claims examination reports on this Company.

The review of the sample of individual claims files was conducted at the offices of the California Department of Insurance in San Francisco, California.

## **EXECUTIVE SUMMARY OF CLAIMS SAMPLE REVIEWED**

The claims reviewed were closed between December 1, 2006 and November 30, 2007, referred to as the “review period”. The numbers of paid claims files included only claims that were paid after 30 or more days from the receipt of notice of claim. The examiner randomly selected 40 HANA claims files for examination. The examiner cited 21 alleged claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 from this sample file review.

The examination found violations involving failure to correctly or completely communicate with claimants and failure to document claims files accurately or completely.

**RESULTS OF REVIEWS OF  
CONSUMER COMPLAINTS AND INQUIRIES,  
AND PREVIOUS EXAMINATIONS**

The Company was the subject of no California consumer complaints and inquiries closed between December 1, 2006 and November 30, 2007, in regard to the lines of business reviewed in this examination.

The previous claims examination reviewed a period between October 1, 2000 and September 30, 2001. The most significant noncompliance issue identified in the previous examination report was the Company's failure to provide letters of denial. This issue was identified as problematic in the current examination only in instances in which a portion of the claim was payable and a portion was not covered.



## DETAILS OF THE CURRENT EXAMINATION

Further details with respect to the examination and alleged violations are provided in the following tables and summaries:

HANA SAMPLE FILES REVIEW			
LINE OF BUSINESS / CATEGORY	CLAIMS IN REVIEW PERIOD	SAMPLE FILES REVIEWED	CITATIONS
Home Protection Paid	187	10	4
Home Protection Closed without Payment	26	15	7
Home Protection Denied	18	15	4
Home Protection General Citations			6
<b>TOTALS</b>	231	40	21

<b>TABLE OF TOTAL CITATIONS</b>		
<b>Citation</b>	<b>Description</b>	<b>HANA</b>
CIC §790.03(h)(1)	The Company failed to represent correctly to claimants, pertinent facts or insurance policy provisions relating to coverage at issue.	5
CCR §2695.3(b)(2)	The Company failed to record in the file the date the Company received, date the Company processed and date the Company transmitted or mailed every relevant document in the file.	5
CCR §2695.7(b)(1)	The Company failed to provide the written basis for the denial of the claim.	5
CCR §2695.3(a)	The Company failed to maintain all documents, notes and work papers in the claim file.	2
CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.	1
CCR §2695.6(a)	The Company failed to adopt and communicate to all its claims agents written standards for the prompt investigation and processing of claims.	1
CCR §2695.6(b)	The Company failed to provide thorough and adequate training regarding these regulations to all its claims agents.	1
CCR §2695.7(b)(3)	The Company failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	1
<b>Total Citations</b>		21

## TABLE OF CITATIONS BY LINE OF BUSINESS

<b>Home Protection</b> <b>2006 Written Premium: \$513,481</b> <b>AMOUNT OF RECOVERIES</b>	<b>NUMBER OF CITATIONS</b>
<b>\$0</b>	
CIC §790.03(h)(1)	5
CCR §2695.3(b)(2)	5
CCR §2695.7(b)(1)	5
CCR §2695.3(a)	2
CIC §790.03(h)(3)	1
CCR §2695.6(a)	1
CCR §2695.6(b)	1
CCR §2695.7(b)(3)	1
<b>TOTAL</b>	<b>21</b>

## SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

In response to each criticism, the Company is required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Company is obligated to ensure that compliance is achieved.

There were no recoveries discovered within the scope of this report.

### **HOME PROTECTION**

**1. In five instances, the Company failed to represent correctly to claimants, pertinent facts or insurance policy provisions relating to a coverage at issue.** In five instances, the Company sent letters that contained inaccurate statements.

In three of the five instances, the Company sent a letter which stated that when the contractor arrived at the home for the appointment nobody was home. In fact, the contractor never went to the residence.

In two of the five instances, the agent or homeowner cancelled the call for service and the contractor never went to the residence. The Company sent a letter to the homeowners which stated that nobody was home at the time the contractor arrived at the homeowner's residence. The Department alleges these acts are in violation of CIC §790.03(h)(1).

**Summary of Company Response:** The Company agrees and has updated its letters to contain the accurate reason for the closure of the claim.

**2. In five instances, the Company failed to maintain claim data that are accessible, legible and retrievable for examination.** The date on the contractors invoice provides the date the contractor was at the homeowner's residence. In five instances, the contractor did not date the invoice. The Department alleges these acts are in violation of CCR §2695.3(b)(1).

**Summary of Company Response:** The Company agrees and has contacted the contractor to ensure that he/she writes the date of the visit to the residence on all invoices.

**3. In five instances, the Company failed to provide the written basis for the denial of the claim.** The Department alleges these acts are in violation of CCR §2695.7(b)(1).

In three of the five instances, the contractor and HANA determined that the service request was not covered and verbally communicated this to the homeowner. A written denial was not issued.

In one general instance, when the contractor, at the time of inspection, determines that a portion of the claim is payable and a portion is not payable, the Company does not issue a denial letter for the denied portion of the claim.

In one general instance, denial letters do not provide an explanation of the condition or exclusion applicable to the denial.

**Summary of Company Response:** Effective immediately, denial letters will be sent when a contractor, at the time of inspection, denies a claim in whole or in part. Denial letters will now contain an explanation of the condition or exclusion applicable to the denial.

**4. In two instances, the Company failed to properly document claims files.** In one instance, the contractor invoice was not provided.

In one general instance, when sending out a denial letter, the Company attaches a copy of the policy and highlights the portion of the policy that applies to the denial. Due to the highlighted portion not showing on a photocopy, the Company is unable to keep copies of the actual document sent to the member.

The Department alleges these acts are in violation of CCR §2695.3(a).

**Summary of Company Response:** In the first instance, the Company agrees that the file was not completely documented. The contractor in question has been contacted and the importance of documentation has been discussed.

Regarding the denial letters, the Company has discontinued highlighting the copy of the policy and now underlines the portion of the text on the policy that supports its denial. A copy of this document will be kept in the file.

**5. In one instance, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.** The Company provided that the date field on the contractor invoice is the date the contractor went to the residence. In this instance, the date field on the contractor invoice is not the date the contractor went to the residence and the remainder of the invoice does not contain that information. The Department alleges This act is in violation of CIC §790.03(h)(3).

**Summary of Company Response:** The subcontractors have agreed that they will write down the date when they visit for service and will include more specific details. They will also report back to Hana within a couple of days if there are any problems.

**6. In general, the Company failed to adopt and communicate to all its claims agents written standards for the prompt investigation and processing of claims.** For the period of December 1, 2006 to September 1, 2007, HANA did not have written standards. The Department alleges this act is in violation of CCR §2695.6(a).

**Summary of Company Response:** The Company created written standards and has included them in its training materials which will be presented before September of each year.

7. **In general, the Company failed to provide thorough and adequate training regarding these regulations to all its claims agents.** For the period of December 1, 2006 to September 1, 2007, HANA did not train its claims agents regarding the regulations. The Department alleges this act is in violation of CCR §2695.6(b).

**Summary of Company Response:** Effective immediately, training on the regulations will be conducted before September of each year.

8. **In general, the Company failed to include a statement in its claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.** As a general practice, the denial letters did not contain the required wording. The Department alleges this act is in violation of CCR §2695.7(b)(3).

**Summary of Company Response:** The Company agrees and effective immediately has updated its denials to include the required wording.